IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6582 of 2007()

CRLMP.2679/2007 of DISTRICT COURT, ALAPPUZHA
CRIME NO.295/07 OF PUNNAPRA POLICE STATION

.....

PETITIONER/ACCUSED

P.G.BABU, AGED 46 YEARS,
S/O. LATE GOVINDAN, PUTHEZHAM, PUNNAPRA SOUTH
WARD NO.6, ALAPPUZHA DISTRICT.

BY ADV. SRI.S.SANAL KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6582 OF 2007

Dated this the 7th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Sec.409 of the IPC. He is the Secretary of the Punnapra Service Co-operative Bank. He was acting as Secretary during the period from 1/6/89 to 31/5/90 and was the Secretary during the period from 1/6/90 to 20/7/06. The crux of the allegations against the petitioner is that during the period from 1/4/98 to 31/3/99, he had caused loss to the tune of Rs.2.26 lakhs to the Co-operative Bank by his contumacious acts of omission and commission. The crime was registered on the basis of the report of the Auditor. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner was not in charge of the actual day-to-day

transactions in the bank though he cannot claim absolution from moral responsibility as the Chief Executive for the acts committed. At any rate, it would be unkind and harsh to attribute culpability to him only because the Auditor's report says that loss has been caused to the bank. The petitioner further points out that the alleged incident had taken place long long back and at the present stage there is absolutely no necessity to compel the petitioner to endure the trauma of arrest and incarceration. The petitioner is willing to co-operate with the Investigator. He shall appear before the Investigating Officer. He may be permitted to be interrogated in custody; but the trauma of arrest and incarceration may be avoided, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that notwithstanding the passage of time, the petitioner has to be interrogated in detail. The arrest and detention of the petitioner is, in these circumstances, necessary, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I am persuaded to agree that the prayer for anticipatory bail can be granted in this case. In coming to this conclusion, I take note of

the nature of the allegations as revealed from the Case Diary which has been perused by me. I do further take note of the fact that a period of about 9 years has already elapsed from the date of commission of the offence. I am satisfied that subject to appropriate conditions which shall adequately secure the interests of a fair, efficient and expeditious investigation, anticipatory bail can be granted to the petitioner.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 14/11/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 5 p.m. on 15/11/07, 16/11/07 and 17/11/07. During this period, the Investigator shall be at liberty to interrogate the petitioner in custody and take all necessary steps for the investigation of the crime. Thereafter, on all Mondays and Fridays between 10 a.m. and 12 noon for a period of three months. Subsequently, he shall so make himself available for

interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 14/11/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 14/11/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge